Sectt. II-27—30,006—26-11-31.

Development (1932) Department.

MS. SERIES.

G.O. No. 1366

1366

DATED 20.-10-1932.

[Despatch Abstract.]

Forests — Establishment — District Forest officer, North Mangalore — Irregular appointment of Clerk — Regularised — Instructions issued.

Copy of letter No.289-C/32, dated the 23rd March 1932, from the Secretary, Madras Services Commission.

The District Forest Officer, North Mangalore, applied to the Collector of South Kanara for the allotment of a candidate belonging to the Christian community for appointment in a leave vacancy in a Range Office under his control and he was informed in reply by the Collector that there was then no candidate available belonging to that community in the list of persons selected by the Commission for appointment in offices in group IV in that district. The District Forest Officer thereupon appointed in the vacancy for a period of three months one Mr.K. Pandu Ranga Rao who is a candidate not approved by the Commission and who does not belong to the Christian community. The reasons stated by the District Forest Officer for making this appointment are that a clerk had to be granted leave urgently and relieved at once, that no approved candidate from the list of selected persons could be got immediately and that therefore there was a case of emergency for the appointment of an outsider. The District Forest Officer evidently seems to have acted under the emergency provision in rule 2(d) of the rules for the Madras Ministerial Service. The Collector has reported that there was no further requisition from the District Forest Officer for the allotment of an approved person, than the one referred to above. If an approved candidate of the Christian community was not available, the District Forest Officer should have applied to the Collector to allot an approved candidate belonging to the next community in the order of communal rotation in accordance with the instructions in rule 5(b) of the General Rules for Subordinate Services. Further it is not clear from the District Forest Officer's order of appointment whether the leave granted to the permanent clerk was medical leave. Otherwise ordinarily there would be no reason for having to relieve the permanent clerk before a substitute obtained through the Collector according to the prescribed procedure, joins duty. It seems to the Commission that in this case there was not sufficient justification for the District Forest Officer to resort to the emergency provisions

Letter No. 289-C/32

From

M.R.Ry.Rao Sahib C.P.Karunakara Menon Avl.,

SECRETARY, MADRAS SERVICES COMMISSION,

To

THE CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS,

Public (Services) DEPARTMENT,

Dated, Madras, the 27th May *1932.*

SIR,

Appointment - Madras Ministerial Service - Temporary appointment under rule 2(d) of the Special Rules - Issue of instructions to heads of departments and offices - Commission's letter No.289-C/32, dated 23rd March 1932.

I am directed to state that the District Forest Officer, North Mangalore, has since reported to the Commission that the permanent clerk of his office was granted an extension of leave for one month from 1st May 1932 to 31st May 1932 and that as no other arrangement was considered suitable he had allowed Mr.K. Panduranga Rao who was appointed by him in January last to continue in that vacancy. It has been pointed out to the District Forest Officer, how the first appointment of Mr.Panduranga Rao presumably made under rule 2(d) of the Madras Ministerial Service Rules was itself not in order and, how his continuance in appointment after the expiry of the three months' period is in contravention of the provisions of that rule. I am directed to bring this further violation of the Statutory Rules by the District Forest Officer, North Mangalore, to the notice of the Government for such action as they may deem necessary.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary.

P.M.R.27/5.

4

DW Dept

Gen. No. 1216 D. Dy. 26.6.32

32-2

Letter from the Secy. to G.C. Nos.

289-C/32 Dy 23.3.32 & 289-C/

Dy 27.5.32

Copies of the letters Nos

289-C/32 Dy 23.3.32 and 289

Dy 27.5.32 from the Secy, to G

are Communicated to the

C.C.T.

2/ The C.C. is requested to direct

the D.F.O to ~~send the man out~~ terminate the service

of the temporary clerk

immediately if he is still

Continuing and to get a

a member

~~another~~ of the next Community

available. The C.C. is also

requested to obtain and Submit

the D.F.O's explanation for

not addressing to the Collector

to allot an approved

belonging to

Candidate to the next

Community in the order of

Communal rotation and

~~also~~ for not specifying

in the order of appointment

that it was a temporary

vide previous (d) to mle 2
the Madras Ministerial
Loan mle

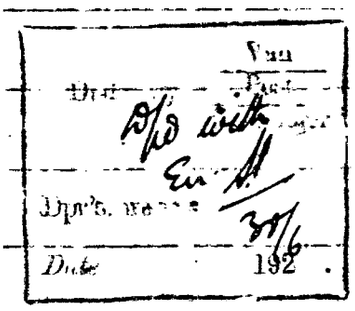
CC
3682

8/
2632

Cancn

SW
24/6

Do
Dte CC 7 with Correspondence
in the C-7



Des. 2048-I
7-9-32

DEPARTMENT.

Received ..... 19 . *Registered* 19

Subject.

Establishment - appointment of a Range Clerk in the North Kanara Division - Explanation of the District Forest Officer - submitted.

ENCLOSURES.
No. two letters

Spare copies.....

Ref. No. 5823/32-B2.

Station Camp Kargudi, *Dated the* 4th September 1932.

From (Name) R.D. Richmond Esq., C.I.E., I.F.S.,

(Designation) Chief Conservator of Forests.

To The Secretary to the Government of Madras,

Development Department.

Sir,

Ref. Government Memorandum No. 1216-I/32-2, dated 26-6-1932.

The explanation of the District Forest Officer, North Kanara, together with the endorsements of the Collector and the Conservator of Forests, VI Circle, is submitted.

2. The services of the acting clerk were dispensed with from 1-6-1932.

3. It was pointed out to Government in the Public (Services) Department, in this office telephonic message

of 27-5-1932, that C.C. No. 182, Public, dated 16-2-1931, read in Memorandum No. 11592/2 of 16-5-1932, had not been received in this office and a copy was asked for. But a copy had eventually to be obtained elsewhere and was communicated to subordinate officers only on 20-6-1932.

4. It would appear that greater elasticity is required in the working of the Statutory Rules, which if followed to the letter, must lead to grave administrative inconvenience in the case of a department such as this; while it would have been ridiculous had the District Forest Officer discharged at the end of three months the clerk first appointed and obtained, after inevitable delay, the services of a completely inexperienced man for a period which would probably only have amounted to a few days, what time the work of the office went to pieces or the Ranger, the bulk of whose work should be in the field, devoted himself wholly to office work. It was impossible to foresee that the period for which the acting arrangement would be necessary would exceed three months and it has been shown that the grant of leave in the first instance was imperatively urgent. Mr. Matthew has nothing ~~to~~ with which to reproach himself and it is fortunate that he was personally acquainted with the facts.

There are obvious difficulties in the working of the Rules which do not take into consideration the conditions of isolated one clerk offices of a technical nature.

4.9.32

Chief Conservator of Forests.

K.P.N/4-9.

Endorsement of the Conservator of Forests, VI Circle, Dotacamund, Ref.No.M.1853/32 dated 25th August 1932 on Ref. No.A.1-1784/F.32 dated 5.8.1932 from the Dt.Forest Officer, N.Mangalore, to the Conservator of Forests, VI Circle.

--

Ref.No.M.1853/32 dated 25.8.32.

Forwarded to the Chief Conservator of Forests, Madras.

2. The clerk was in service ffom 30th January 1932 to 31st May 1932.

3. I do not agree with the conclusion that there was insufficient justification for the District Forest Officer to resort to the emergency ϕ provision of the Statutory Rules in filling the vacancy in question. The permanent Range Clerk of Udipi Range became ill suddenly and applied for leave and he had to be relieved urgently about the end of January 1932. This is certainly a case in which urgent action is necessary; and an appointing authority would be justified in resorting to the emergency powers vested in him under rule 2(d) of the Madras Ministerial Service Rules. The District Forest Officer did not however apply this option all at once. He applied to the Collector for a candidate of the Anglo-Indian, Christian or non-Asiatic community. The Collector replied that there was no Christian candidate in the Public Service Commission list under group C. He did not say that a person of the next community was available. It was principally the Collector's concern to see that a qualified man of next available caste was put in when procurable. On the other hand, the Collector gave the Dt. Forest Officer to understand that he could appoint any Christian candidate for a period not exceeding three months. It was only then that the Dt.Forest Officer resorted to the emergency powers

4. The circumstances under which the services of the clerk were retained beyond the period specified in the Statutory Rules are explained in para 4 of the District Forest Officer's letter. The vacancy was only of about four months duration and it would have been simply in-expedient to put in a new man. then turn him out when a qualified man became available.

5. I am, therefore, of opinion that the circumstances in this case were exceptional. If the Statutory Rules were broken it was neither intentional nor avoidable.

6. In conclusion, the Commission's ~~xxxxxx~~ services would be even more valuable than they now are if they could cater special for a Department like ours. We require in our subordinate clerks technical qualifications far more than an even, or high, educational standard.

A Forest Ranger is out on his open-air work a great part of the day; and his one solitary clerk is not of much use if he has to sit idle in the office, because the Ranger is away, and there is no one to teach him ~~xxxxxx~~ how to do the work of a Range Office. Our forest offices have a very different class of work to do to that of the ~~xxx~~ revenue or judicial, registration etc. etc. offices; and whilst we try to obey the rules, we should much prefer to find for ourselves clerks with experience of forest office ~~xxxx~~ routine.

H. F. Tandi
26/8/32.

Ootacamund, 25.8.32. Conservator of Forests, VI Circle.

V.R.26/8

RECEIVED
27 AUG 1932

Ref G4-1784-732

CONSERVATOR OF FORESTS
Mark No.
19 AUG 1932
1853
SIXTH CIRCLE

32 -

Office of the Dt.Forest Officer,
North Mangalore.
Mangalore. dated 5th August 1932.

Office Note

From

K. T. Matthew Esquire, B.Sc., I.F.S.,
District Forest Officer,
North Mangalore.

7317-A2-32

COLLECTOR'S OFFICE
9 AUG 1932
SOUTH CANARA

To

The Conservator of Forests,
Sixth Circle, Ootacamund.

Through

The Collector of
South Kanara, Mangalore.

Subject :- Appointment of a Range Clerk in the North Mangalore Division in contravention of the Statutory rules - Circumstances reported.
Reference :- Conservator's Ref M.No. 1853/32, dated 2-8-32.

The facts that led to the appointment of K. Panduranga Rao, a candidate not included in the list of candidates approved by the Madras Public Services Commission, as an acting clerk in Shankernaraina Range and his retention for more than three months are as follows :-

7317-A2-32

1. The permanent Range clerk of Udipi Range suddenly fell ill and applied for leave and he had to be relieved urgently about the end of January 1932. I knew he was ill, and did not, therefore, make him appear for a medical recommendation. So I applied to the Collector of South Kanara to give a candidate of the Anglo-Indian, or Christian or Non-Asiatic community to be appointed as Range clerk. The Collector replied that there were no Christian candidates in the Public Services Commission list under Group C and had left a note in the margin of my reference that the appointment can be given under the rules to any Christian candidate out of employ for a period not exceeding three months. But no Christian candidate was available at that time and I had to appoint a Non-Brahmin.

2. The appointment had to be made quickly as the clerk who applied for leave was in a very bad state of health. An experienced clerk was necessary at the time to prevent dislocation of work in the Udipi Range Office, which is a heavy Office. So I transferred an experienced man (the Shankernaraina Range clerk) to Udipi Range and appointed an outsider who had previously acted as a Clerk in this Office as an acting Range clerk in Shankernaraina Range, under the power delegated to appointing authorities under rule 2(d) of the Madras Ministerial Service Rules and immediately informed the Madras Services Commission of the circumstances through the Collector of South Kanara.

Jv. 6 St. 19-6-31

3. The Madras Services Commission in its letter, dated 18-5-32 when the acting arrangement was about to cease at the end of May 1932 objected to it and explained the procedure to be followed as per G.O.No. 712, Public, dated 2-7-29 and G.O. No.182, Public, dated 16-2-31. When the appointing authority had full power under rule 2(d) of the Madras Ministerial Service Rules to appoint an outsider for a temporary vacancy for three months together in a case of emergency and so long as details of emergencies are not given in this rule, instructions under rule 5(b) of the General Rules issued in G.O.No. 712, do not arise except that it is intended to be followed when applying for a candidate from the list and for recuitment therefrom or similar lis I was not aware of the instructions issued in G.O.No 182, Public, dated 16-2-31 issued to all Heads of Departments and which was communicated to all Dt. Forest Officers in Chief Conservator's Mis 279/278, date 11-6-32, received by me on 24-6-32, when the acting appointment made purely as an ad interim had also ceased on 1-6-32.

4. The permanent Range clerk of Udipi Range was expected to join duty on the 30th April 1932, but the clerk unexpectedly got a relapse and had to be given an extension of leave for one month. This again was within my own personal knowledge. The situation thus arose only at the end of April 1932. The acting clerk appointed had by this time experience of the work. To turn him out and put in an outsider ousting the experienced clerk, would obviously have been bad for the work. I had very short notice about the need to extend the permanent Range Clerk's leave. I thought it would be in the interest of service to make the acting man to continue for another month. Intimation in this connection was given immediately to the Madras Services Commission through the Collector explaining the circumstances under which the appointment was allowed to continue. Circumstances that influenced me also were that I had been ordered to put Shankernaraina Range under the Assistant Conservator Mr. J. Banerji from 8-5-32 just at the time that I became aware the permanent Range clerk not returning. This appointment was made because some demonstrations of " Forest Satyagraha " were being originated there. It was not a suitable juncture for dispensing with the acting clerk and waiting for a fresh candidate..

These facts and unforeseen circumstances made me to believe that my action would be approved.

H S Mathew 6.8.32
District Forest Officer,
North Mangalore.

M.M1R/6-8-32.

Public (Services) Department.

(C) 19.6.31

Public Services - Madras Ministerial Service - Temporary appointment - Rule 2(d) of the special rules - Instruction to Heads of departments.

(5)

Attention is in the first instance invited to G.O.No.182 Public, dated the 16-2-1931.

C-7

2. A in para 1 of the M.S.C's letter.- The M.S.C. seems to think that medical leave alone is urgent. The conclusion based on this view, that there was no justification for a resort to the emergency powers does not seem to be quite sound.

The D.F.O. could have given xxxxxxxx to the next community. In any case an extract may go to Dev. who may be asked kindly to call for a detailed report in the matter.

G.H. 15-4-32.

G.T.H.B. 18-4-32.

G.H. 5-32.

To the Development Department.

Pub(Ser) U593-1 9/5/32

Dev 1216 I 10.5.32

Dev Dept

I

AS

Please see the Copy of the letter from the M.S.C. in the C-7 and the remarks of Public above.

2/ The C.C-7 may perhaps be asked to ascertain and report in the matter. If so a Draft Endt is submitted for approval

I don't see what further report is called for.

1-5-32

Only an Explr. cf. at all needed, as to why he did not address the Collr. for a candidate of the community next in order is necessary. This Explr. will be an absurd,

14

Stated that he wanted to relieve the man urgently and he approved the candidate mentioned available.

In view of the Com: Has no have other than medical leave it urges cannot be accepted.

I submit that we may simply tell the C.C. to submit the D.F.O. that he ought to have enabled the Officer in regard to other candidates before making the appt. For orders.

RK
20.5.32

Sec
20/5

20/5

A draft on to the C.C. 2. is submitted for approval. After issue the file may be returned to Public.

17.5.32

Sec
20.5.32

Public may see before issue

RK
22.5.32 Public

Secretary 12/16 2/CW 26 MAY 1932 CIVIL SECT. Public (Sec.) Dept.

23.5.32 May be perused & returned

25/5/32. 2 Further letters should be called from the M.S.C

Put up the cuttings we have seen on the board

Please see 115. Flag (2)

25.5.32

has been added at p. 3 cy. The Dev Dept may perhaps be advised to warn the D to that the consequence of such irregular appointments is recovery of pay for the period & ask him to show cause why such recovery should not be ordered now.

J.M.S. 1.6.32

The retention of the man after the period of 3 months was illegal. Such retention cannot we think recognise, be condoned in certain cases & we have consulted the Govt Solicitor separately in the matter.

The difficulty is that we cannot always be certain that such retention is unwarrantable. It is very easy to manipulate & then evade the rule re unfurnished leave & the Secretary with whom the decision of case comes up to us states that the rule re bona fides appears to be being abused. We have recently had similar applications in the matter of the D.F.D rig in this case

The case is closed
2/6
Letter file.

be directed to send the man at
NMB / immediately to get a
16 / after next convoy available
to Quetta via the Khaibar at Z
We may also get as well as ask
for the ACO's explanation in the
matter, if for no other reason only
to warn him that appointments
made by acting authorities are
being sanctioned to unequivalent
& vacancies

1116

as the M.S.C. prefers the
matter, the explanation of
the D.F.O is necessary.

Devl. NMB
15-6-32

Pubs(M&O)
1765-1
16-6-32

ASSISTANT SECRETARY TO GOVT.
16 JUN. 1932
CHIEF SECT.

Dev. (M.S.) 1
17-6-32

Please see the remarks of Public
at pp 2-4. above.

2/ A revised draft on is submitted
for approval.

RC
23.6.32

21-6-32

4-5 C.

Issued as on No. 1216 1/32 Dy. 26.6.32
from the C.C.7 No. 5823/2-32 Dy. 4.9.32 pp 6-

Sir,

Please see the letter from the C.C.7 at pp 6-7 C.7 and the enclosures thereto at pp 8-12 C.7

2. The D.F.O. North Mangalore was asked to explain

(1) Why he did not apply to the Collector of North Mangalore to allot an approved Candidate belonging to the next Community in the order of Communal Rotation, to fill up the vacancy in the post of clerk in Sankaranarayana Range, and

2) Why he did not mention in the order of appointment that it was only temporary under proviso (d) to Rule 2 of the Madras Ministerial Service Rules.

cf. Memo at pp 4-5 C.7

Item (1) above

The D.F.O. states that he applied para 1 & 10 C
to the Collector for allotment of a Christian
Candidate belonging to the next
Community but that the Collector
replied that a member of that Community
~~was~~ was not available. As the

permanent clerk to ~~X~~ ill
suddenly and required urgent
relief he appointed a non Brahmin
who was then available
f.o. 686 (C) under proviso (d) to rule 2 of the
19.6.31. Madras Ministerial Service Rules.
The Conservator supports the
para 3 p 8 C.7 action taken by the D.F.O and
states that it was the duty of the
Collector to have suggested another
(of the next community)
Candidate if a Candidate of the
~~next~~ Community was not available
since he had not done so, the D.F.O
had no recourse but to appoint a
man who was immediately available
cf. para 4 p 12 C.7 The further extension ~~for~~ ~~[illegible]~~
~~[illegible]~~ till 1.6.32 was also
unexpected as the permanent clerk
got a relapse unexpectedly. vide
para 4 at p 12 C.7 The Conservator
D.F.O states that to recruit a
raw ~~man~~ Candidate at that stage
para 4 of C's letter at p 7 C.7 and para 4 of Conservator's letter at p 8 C.7 was undesirable for the reasons stated in para 4 p 12 C.7
The Conservator and Chief Conservator of Forests
support his action. The C.C observes
para 4 p 7 C.7 that in a Deptt like Forest Deptt
requiring special knowledge of
technical nature it would be
hard to adhere strictly to the letter

of the Rules in force and that sufficient elasticity should be provided for in cases of special nature of the kind. This point may be considered in connection with the revision of the Spl for orders whether the explanation offered by the D.F.O will be accepted.

(2) above The D.F.O does not assign explain why he did not mention in his order of appointment that it was only temporary arrangement. The Conservator and the CC are also silent on the point. For orders whether the point is to be pursued further.

Dy CC may be asked to inform the D.F.O that he should have asked the Collr to allot a candidate of the next community before making the appt of Ramasanga Rao ~~in case he should have made~~ ~~terms in the order of appt~~ that

CC 14992

The file of the case

Sir

now in correct channel

It is a case of illness of a clerk who had to be relieved at once. The D.F.O did not fill the vacancy straightaway but in the order when the Collector did not send

a candidate of the Community would be. It was
open to the Collector to have bypassed the name
of each of the members belonging to the community next in
order of seniority, and thus the trouble
would have arisen. This is not however
referred to as
a justification for the D.F.O's failure to make
another reference. But he was in great need
and was also in a way misled by some
remarks of the Collector which he minuted for his
office that which [illegible] D.F.O. the idea that
he could appoint a man for three months.
Anyway, the emergency powers were, I submit
properly used in this case.

Coming the D.F.O did not specify
the temporary nature of the appointment in the appointment order,
does not consider that [illegible] the matter need be pursued
any further. Whether he did so or not, it was
the certain that the officer should know that he
could not retain a man appointed under
the emergency provisions for more than three months.
The resolution No. 182 dt 16-2-21 is not understood.
The resolution does not make it clear that the
appointments made certain who have
selected by the Committee can basically for 11
months. The retention of this man for more than
the period is wrong in order and the excuse
that the rejection of the clerk would disturb work
is unacceptable. The appointment of a new man under no

doubt be inconvenient; but illegal actions cannot be justified on the ground of convenience. Per all the experience of the temporary clerk was employed for three months before he was in the office; a new clerk may not have proved quite useless. Best clearly it would have been inconvenient to make another change then. Sir

The ee may be informed that the DF.O should have taken steps to terminate the service of the temporary man immediately the three months period mentioned by the rules expired and that he must in future be careful not to transgress the ~~rules~~ statutory rules.

30191

Public Dev no 1216 1/32-2

Public (Sec) Dept

Action may be taken as proposed at Also the temporary appointments

The file may be returned to Dept beyond the limit of 3 months being illegal, no cover of the pay granted for any period beyond that limits must be waived off

The file may be returned

Fin Dev.

P.I (Sec) No 30191-1

Finance GR

The file relates to ... ular appointment made by the Dt. Forest office, N. Mangalore of a candidate not approved by the Madras Services Commission, as a clerk in his office for a period of 4 months from 3.0.1.32 to 31.5.32.

para 2 and 8 of G.O. 6.8.6 Pub 19.6.31

Under rule 2(d) of the Madras Ministerial Subordinate service rules an appointing authority may appoint a clerk not approved by the Commission, in the case of emergency for a period not exceeding three months. As the period in the present case has exceeded the time limit prescribed in the statutory rules the pay drawn for the period is irregular and will have to be waived. ~~As the amount involved in the present case is only Rs 6/-~~ Finance may agree to the waiver in the present case.

The case may be passed on to Development.

ASSISTANT SECRETARY TO GOVERNMENT
8-OCT 1932
DEVELOPMENT DEPARTMENT

SR 5.10.32

Dev. 2333 I
10.10.32

JVRN 5.10.32

in No. 30591 ER-1
6.10.32

Dev

Dr Dept

Lgs

AS

1/ Please see the remarks of Public and Finance at pp 9-10 supra

2/ A draft ord is submitted for approval

RR

2.10.32

Sectt. II-5 (a)

	Date.	Initials.
When received for Fair-copying		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Forest DEPARTMENT.

Estab - D.F.O. North Mangalore - Irregular appointment of clerk - Services regularised

READ AGAIN G.O. No. ....., dated 19

" " " 19

READ ALSO :—

C. No 1216 I/32 From the Hr. S.C. Mr. No 289-C/32, dated 23.3 1932.

" " ..... " " 289-C/32 " "

" " ..... " " 1216 I/32 " 26.6.32

" " ..... " " C.C.7 Mr. 5823/32-B2 " 4.9 1932

ORDER ... No. 1366, dated 20-10-1932

Note on P.N.7

The C.C. is informed that the District Forest Officer North Mangalore should have taken steps to terminate the services of the temporary clerk immediately on the expiry of the three months period prescribed in Rule 2(d) of the Madras Ministerial Service Rules. He should inform the D.F.O that in future he must be careful not to transgress the Statutory rules.

If the Govt are pleased to
waive the recovery of the pay
drawn by the Clerk for the period
served by him
of one month ~~in excess of the period prescribed by the Rule~~
in excess of the three
months limit
prescribed in the
~~minimum service~~ Statutory Rule

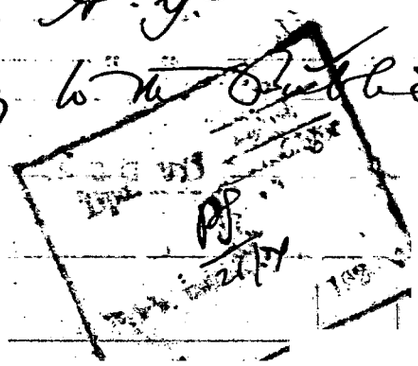
Para 2 (d) of ~~minimum Subsidiary~~.

Letter on p 10 N 7

2.10-32

To
The C.C.F.
C.C.
The A.G.

Dy to the Public Depts



The C.C. is informed
that the District Govt after
Govt Sanction, shall
have taken steps to
terminate the services
of temporary clerk
appointed on the scale
of pay/ ~~Rs~~ mentioned
in Rule ~~2~~ of the Secretariat Service Rules